G. R. S. IX-5]

Previous references.

File No. 216-14

1914. 15

(Courts)

Serial Nos. 1

Later references.

Preserve
3/7/21

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1

Part B for December 1915.

SUBJECT.

All sentences passed by any Magistrate being made appealable.

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1) To, The Registrar chief court
The Secy Jud Conference

J 2124-5 D/14-12-16
States that Govt do not consider that any change in the existing law is necessary

W D 68—GPB—50,000—24-7-16

Wafaan asundaan
26/3/17

G. R. S. 11] 1914-15

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 216-14

FILE HEADING.

All sentences passed by any magistrate being made appealable

(Conference Subject No. 20)

From

No.	Dated	Received

Diary No.	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

NOTES—First Sheet.

2

General and Revenue Secretariat. | File No. 26 of 1914-15

Serial No.

20. That all sentences passed by any Magistrate shall be appealable.

W.O. J 58-14

D) Forwarded unofficially to the Registrar, Chief Court, for favour of obtaining the opinion of the Judges of the Chief Court on the above resolution of the judicial Conference of 1914.

By order

Esumiwamy

19th Jan 1915. For CHS: Secy to Govt

OPINIONS.

D. Dis No 168 D/29.8.16

2) The Sessions Judges were consulted in the matter and they are of the following opinion :-

The Sessions Judge of Bangalore sees no good reason for the proposed change.

The Sessions Judge of Mysore thinks that if appeals be allowed from all convictions, the work of the Sessions Judge would become so heavy as to prevent him from attending to his civil work and this would necessitate the appointment of an additional District Judge entailing extra expenditure upon the Government.

He

NOTE—Contn. sheet.

GPB—25,000—2-11-14

He is also of opinion that if the Chief Court exercise its powers of revision in a liberal spirit, there would be no necessity for the proposed measure.

The Sessions Judge of Shimoga is in favour of the proposed change.

3) The Judges of the Chief Court are of the following opinion :-

The CHIEF JUDGE :- " As the District Judge of Mysore points out it is really a financial question. No harm would be done to the administration of justice by admitting an appeal from all convictions, but there would be the danger that Sessions Judges would be overwhelmed with criminal appeals and would require assistance.

I believe that the amount of extra work might not be so great as is feared: the statistics for the year 1914-15, shew that of sentences passed by second class magistrates which would have been non-appealable if passed by first class magistrates, only 261 out of 1957 were appealed against. The higher the sentence the less likely is an appeal. I should think it very probable that the Sessions Judges with their assistants, who should be empowered to hear appeals, could cope with the work; I do not think myself that it is desirable to turn the Chief Court into a court of appeal for petty cases, by stretching our powers of revision.

Restricting the right of appeal by reference to the sentence is not a very logical way of dealing with criminal sentences, but on the whole is not unjust. It amounts to this that all sentences are appealable which are likely to have really serious consequences for the convict.

I do not think the reform suggested is urgently called for but I should not oppose it if the Government is prepared to meet the demand for extra officers if necessary.

First class magistrates passed 1718 non-appealable sentences and 441 appealable sentences in 1914-15. Of the latter 167 or roughly 37 per cent were taken up in appeal: if the same proportion of appeals from non-appealable sentences be anticipated, we should get roughly 600 more appeals to be dealt with by Sessions Judges: that they could not do by themselves nor I think with their assistants, but the proportion is not likely to be so great as in the more serious cases; this is suggested by the statistics of 2nd class cases, when the proportion of appeals from sentences which would not be appealable if passed by 1st class magistrates is only 261/1957 or roughly 13 per cent. Probably there might be a somewhat larger proportion in 1st class magistrates' courts because the proportion of really petty cases would be smaller: but I do not suppose we should get more than 20 per cent - that is roughly 350 appeals more than now and that distributed

distributed over six judges might not overburden them. Moreover, we may refuse the right of appeal when the case is tried summarily as at present and that will account for some more cases.

I should not in the circumstances be disinclined to support an amendment of the Code making all sentences passed in regular trials appealable."

Mr. Justice T. PARAMASIVA IYER :- " I prefer to let things remain as they are. Points of law, excessive sentences and perverse appreciation of evidence are being dealt with by the Chief Court directly or on reports by District Magistrates and Sessions Judges and I think the number of cases in which honest first class magistrates may go wrong in appreciating evidence will be so few that a general right of appeal may increase litigation without furthering justice as a whole."

Mr. Justice MIR HUMZA HUSEIN :- " I agree with the learned Chief Justice. Whether the subjects of H.H. the Maharaja should have unrestricted powers of appeal in cases of conviction by a criminal court is a matter of policy with which we, as Judges of the Chief Court, are not concerned. On principle, it seems to me that there is no reason why the people should not have that right. The limit of non-appealable sentences is no doubt not high, but in case of respectable persons

6

persons, the sentence though it may be light, affects their honor and it seems to me that they should be given an opportunity to vindicate it instead of being allowed to take their chance by way of revision in the Chief Court. If the right is granted, the work of the Sessions Judges will increase and if the Government are prepared to give them relief if it is found to be heavy, I have no objection to the proposal under consideration.'

Dated 28th August 1916. REGISTRAR.

BR

N.G.

PTO

L.C. 20

7

G. R. S. 12]

General and Revenue Secretariat.

CG File No. 216 of 1914.

Serial No.

4) Submd for orders.

B 5.9.16

5) The chief Judge is of opinion that the appeal is not one that is urgently called through but prepared to dispose of it if the Govt. view it with favour and are prepared to incur extra expenditure that may be found necessary. Mr Shamsuddin agrees with him. Mr Paramasiva Iyer considers that no change is necessary.

2153
6.9.16

6) If approved, draft will be submitted to the effect that Govt. do not consider that any change in the existing law is necessary

Eg
6/9

Second Member.

7) I do not think the case for a change is so strong and urgent as to necessitate the appointment of additional Sessions & Addl Sessions Judges, which would be necessary if all sentences were made appealable. As long as Govt. is not prepared to incur additional expenditure on this account the discussion is more or less academic.

8) The file may be submd to the Dewan also, and if he agrees, then a draft as suggested by the Addl Sec. may be issued.

14/9/16

1487
12.9.16

Dewan)

9) I agree. The first member may draft the order, if he concurs, pass the draft order.

12/9/16

NOTE—Contn. sheet.

J.C.20

8

G. R. S. 12]

General and Revenue Secretariat.

C to File No. 216 of 1916.

Serial No.

(10) Submitted for orders.

Eg 4/12

1002 / 8.12

Fait-Skemton)

11) I agree to

Lees

8/12

12) Draft

Eg 8/12

(13)

Draft put up.

B / 24/12

11 8/12/16) SM

12/12

14) Issue

Eg 14/12

1 To The Registrar Sch. courts

The Secy Judl. Conference

no J 2124-5 14th. Dec. 1916

States that Govt do not consider that any change in the existing law is necessary.

NOTE—Contn. sheet.

GPI—70,000—17-12-15

Passing orders on Judicial Conference Subject no 20 -

G.R.S. 28]

Cls File No. 216-14
Serial No 1

Diary No. of letter replied to

Proceedings of the Government of His Highness the Maharaja of Mysore

GENERAL AND REVENUE SECRETARIAT.
( )

, the 191 .

Date of issue 14 & Dec. 1916

Signed by Mr G. Srinivasaiyar

READ—

Resolution no 20 of the Judicial Conference of 1914 recommending that all sentences ~~made~~ passed by any Magistrate be made appealable

ORDER THEREON.—No. J. 2124-5
dt 14-12-16

Govt do not consider that any change in the existing law is necessary.

Sd/-
For Gen Secy

over

To The Registrar Ch Cl

SUBJECT. The Secy, Judicial Conference

Copy to Press Room

SR Ile
11/12/16

GPB—50,000—1-12-12